

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant(s): Robertson, et al.	
Application No.: 10/601118	Art Unit: 3626
Filed: 6/23/2003	Examiner: R. David Rines
Title: Risk Classification Methodology	
Attorney Docket No.: RF010906USNP	

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REMARKS SUBMITTED WITH RCE

Dear Examiner Rines:

Please consider the following remarks in light of the amended claims submitted herewith.

REMARKS

***Response after final***

The Applicant has submitted Remarks and Amended Claims in a Response After Final filed on February 28, 2008. The Applicant requests confirmation that said Amendments have been entered. Said Remarks are incorporated herein by reference.

***Enter of Advisory Action into the Record***

On 5/21/08, the Examiner faxed a courtesy copy of the Advisory Action with respect to the above referenced Response After Final. A copy of said courtesy copy is submitted herewith. The Applicant respectfully requests that said Advisory Action be entered into the record.

Said Advisory Action indicates that said Amendments After Final were successful in overcoming the 112 rejections presented in the Office Action dated 2/5/08.

Said Advisory Action states that the Examiner concedes that the applied prior art fail to limit survey questions to 4 or more questions. The Examiner further concedes that the applied prior art fail to specifically indicate that "Impulsivity" (for example) is explicitly defined as a personality metric that is a subject of the target questions. The Examiner, however, maintains that the specific number and content of the questions included in the survey are a matter of user choice/design choice with respect to the design of the individual surveys. Accordingly the Examiner maintains his rejection of claims 37 – 39 and 44 - 47 under 35 USC 103(a) as being unpatentable over Haner in view of Lajunen and DeTore.

***Amended Claims***

The Applicant has amended claims 37 and 46. Claim 47 has been cancelled.

***Claim Rejections – 35 USC 103***

The Examiner has rejected claims 37 – 39 and 44 - 47 under 35 USC 103(a) as being unpatentable over Haner in view of Lajunen and DeTore.

With respect to claim 37:

- The Examiner has asserted that Haner discloses the step of “*providing to said prospective insured a set of questions that tap into personality traits that may affect accident involvement and reporting*” (prior step a.). This rejection is moot since step a. of claim 37 no longer recites the above referenced limitation.
- The Examiner has asserted that, under his best interpretation of the recited claim language, Lajunen’s correlation method reads on step g. of claim 37. The Applicant respectfully disagrees. Lajunen fails to disclose current step g. because he does not directly correlate the answers of his survey questions to automobile insurance claims. He instead uses the answers to his questions to calculate (not correlate) values of “personality measures” (Lajunen, Abstract) and then attempts to correlate the calculated personality measures to self reported accident rates, not automobile insurance claims. Thus Lajunen fails to teach or suggest all of the steps of the Applicant’s method of directly correlating question responses to insurance claims. A person of ordinary skill in the art would not be motivated to modify Lajunen’s survey method according to the claimed invention since Lajunen’s method would then fail in its intended purpose of “*investigating correlations among three driving inventories and six general personality measures*” (Lajunen Abstract, emphasis added).

Thus claim 37 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTore.

With respect to claim 38, the Examiner has conceded that the applied prior art fail to limit survey questions to 4 to 10 questions (a subset of “4 or more”). Claim 38, however is not limited to 4 or 10 survey questions, it is limited to 4 or 10 “target questions” wherein said target questions have been selected by a survey method. Neither Lajunen, Haner nor DeTore teach or suggest the step of providing target questions selected using a survey method. For example, Lajunen’s target questions were chosen on a theoretical basis, not a survey method. As Lajunen states:

*“In this study 12 items (4 items per scale) were chosen from the Levenson’s original questionnaire on a theoretical basis...”* (Lajunen, p 309, paragraph 2, emphasis added)

Thus claim 38 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTore.

With respect to claim 39, the Examiner has asserted that the specific number of target questions is a mere design choice. This is a bald assertion made without evidence or other support. It fails, therefore, to create a *prima facie* case of obviousness. The Applicant respectfully asserts that there is no motivation for a person of ordinary skill in the art to limit the total number of target questions in Lajunen to four since Lajunen would fail in its intended purpose of measuring six personality measures. It is impossible to measure six independent parameters with only four questions.

Thus claim 39 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

With respect to claim 44, the Examiner has asserted that Haner teaches that in said step of classifying said prospective insured into a risk class based at least in part on said set of responses to said four or more questions, also basing said classification of said prospective insured at least in part on said set of responses to said second set of questions. The Examiner then refers to Haner, page 49, paragraph 3, page 50, paragraphs 5-7 and page 51 table 1.

The Examiner appears to have misinterpreted what Haner has said. The "second set of responses" in claim 44 refer the commonly used "rating factors" (e.g. age, sex) or "personal history" of Haner (page 49, paragraph 1). A person of ordinary skill in the art would not be motivated to combine the personal history of Haner with the personality traits of Haner since Haner specifically teaches that personality traits are substitute for personal history. "*...the personal history form is not used for rating purposes...*" (Haner, p 51, paragraph 2 emphasis added). This is emphasized in Haner page 49 paragraph 3 wherein he states: "*By assessing these attitudes through psychological testing devices, accident susceptibility can be predicted and applicants can be placed at various risk levels. If this proves out, only the risk level of the applicant and the valuation of the coverage would need enter into determination of premium.*" (Haner, p 49, paragraphs 1, 2, 3, emphasis added)

Thus claim 44 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

With respect to claim 45, the Examiner has conceded that the applied prior art fail to specifically indicate that "Impulsivity" (for example) is explicitly defined as a personality metric that is a subject of the target questions. The Examiner has gone on to assert, however, that the specific content of the questions is a matter of user choice / design choice and that said content constitutes non-functional data elements as the specific questions themselves do not alter the claimed method steps. The Applicant respectfully disagrees. The specific content of the candidate questions have a critical impact on the steps of the claimed method. Not all candidate questions or combinations of candidate questions function equally well as target questions. The good ones must be sorted from the bad ones by the recited survey method and the recited survey method is more effective if the candidate questions are limited according to claim 44.

Thus the particular content of the candidate questions that has proven to be effective is not obvious absent the Applicant's disclosure and claim 44 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTore.

With respect to claim 46, the Examiner has asserted that Lajunen, page 310, paragraph 2 discloses a personal statement with which a person is asked to indicate agreement or disagreement. The Applicant respectfully disagrees. The text of Lajunen, page 310, paragraph 2 reads:

*The attitude to driving.* The attitude towards driving was measured by the simple question ("What does driving mean to you?") to which the Ss answered by choosing among four alternatives which were: "I am afraid of driving, and I try to avoid it" (1), "Sometimes I have to drive, but generally, I prefer public transport" (2), "To me driving is, after all, a way to move from one place to another" (3), and "I enjoy driving" (4).

The sentence "*What does driving mean to you?*" is a question. It is not a statement that a person can indicate agreement or disagreement with (e.g. "yes" or "no"). Thus claim 46 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

With respect to claim 47, the Examiner has asserted that Lajunen discloses a method wherein at least one of said personal statements is based on at least one of the statements recited said claim 47. This rejection is moot since the Applicant has cancelled claim 47.

***Moot Rejections***

In this response, the Applicant makes no admission concerning any now moot rejections or objection, and affirmatively denies any position, statement, or averment of the Examiner that was not specifically addressed herein.

CONCLUSION

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Mark Nowotarski, Applicants' Agent at 203 975 7678 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



Mark Nowotarski  
Attorney/Agent for Applicant(s)  
Reg. No. 47828

Mark Nowotarski  
Patent Agent  
30 Glen Terrace  
Stamford, CT 06906-1401  
Tel. 203 975 7678